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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,020	12/28/2001	Rayadurgam Ravikanth		9505
7590		03/25/2004		
RINES AND RINES 81 North State Street Concord, NH 03301			EXAMINER SANGHAVI, HEMANG	
			ART UNIT 2874	PAPER NUMBER

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/034,020

Applicant(s)

RAVIKANTH ET AL.

Examiner

Hemang Sanghavi

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-30 is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 31 is rejected under 35 U.S.C. 102(e) as being anticipated by Kirby (US 6,647,208).

Kirby discloses hybrid electronic/optical switch system comprising an electronic switch fabric and an optical switch fabric at a node of the network. The electronic switch includes a data monitor processor, which detects when traffic from a source to a particular destination is substantial enough to warrant a direct flow path. An optical switch control processor communicates with the data monitor and the switch control processor and routes optical signals of various wavelengths through an HEOS.

As to the data flow, see lines 1-32 of column 8 and lines 1-67 of column 9.

The available capacity of the optical path is monitored to decide a flow of the data packets. See lines 31-54 of column 12.

In lines 63-66 of column 7, Kirby teaches that the optical switch control processor and the data monitor & switch control processor may be implemented in a single process. It is inherent that software is required to control the processors.

***Allowable Subject Matter***

Claims 1-30 are allowed over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest the claimed method and apparatus for fully utilizing the available data flow capacity of optical paths including means for determining when the predetermined optical path is under-utilized in its available data flow capability and the desirability of inserting in that predetermined optical path additional data from the separate data flow path; means for diverting the photonic data packet flow along said predetermined path into the electrical switch fabric and converting the same into electrical data packets, means for joining the converted electrical data packets with the other data packets also presented in electrical data packet form; means for converting the joined electrical data packets into photonic data packet flow; and means for sending the converted joined photonic data packets along the predetermined optical path of the optical switch fabric.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Graves et al and Thomas disclose different types of signal processing devices including electrical and optical switch fabric systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemang Sanghavi whose telephone number is (571)

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272-2358. The examiner can normally be reached on Monday-Thursday (8:30 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hemang Sanghavi  
Primary Examiner  
Art Unit 2874

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